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STATUTORY RULES OF NORTHERN IRELAND

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**2011 No. 357**

**HOUSING; RATES; SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments  
No. 2) Regulations (Northern Ireland) 2011**

*Made - - - - 10th October 2011*

*Coming into operation in accordance with regulation 1*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by sections 90, 122(1)(a) and (d), 129(3), 129A(2), 131(1), 132A(3), 132(3) and (4), 134(1)(a), 147(4), 167A(2), 167D(1), and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(1), sections 2A(1), (3)(b), (d) and (e), (4) and (5), 2AA(1) and (4)(f), 5(1)(h) and (q) and 165(1) and (4) to (6) of the Social Security Administration (Northern Ireland) Act 1992(2), Articles 6(5), 14(1) and (4)(a) to (c) and 36(2) of, and paragraphs 1(1) and 8A of Schedule 1 to, the Jobseekers (Northern Ireland) Order 1995(3), paragraph 8 of Schedule 1 to the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997(4), Articles 10(1)(a) and 21(1)(a) of the Social Security (Northern Ireland) Order 1998(5), and now vested in it(6), sections 15(3) and (6)(b) and 19(1) to (3) of the State Pension Credit Act (Northern Ireland) 2002(7), and sections 3(2)(d), 4(2)(a), 8(1) and (4)(a) and (5), 9(1) and (4)(a), 17(1) and (3)(b), 25(2) and 28(2) of, and paragraph 1(4) of Schedule 1, and paragraph 1(a) of Schedule 2 and paragraphs 1(1) and 8 of Schedule 4 to, the Welfare Reform Act (Northern Ireland) 2007(8).

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- (1) 1992 c.7; the remaining provisions of section 90 (in relation to carer's allowance) were repealed with savings by section 14 and Part 2 of Schedule 4 to the [Welfare Reform Act \(Northern Ireland\) 2010 \(c. 13 \(N.I.\)\)](#), section 134(1) was substituted by Article 66(1) of the Social Security (Northern Ireland) Order 1998 ([S.I. 1998/1506 \(N.I. 10\)](#)); section 147(4) was amended and section 167D was inserted respectively by paragraph 34 of Schedule 1 to, and Article 8(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 ([S.I. 1994/1898 \(N.I. 12\)](#)), and section 171(1) was amended by paragraph 5 of Schedule 4 to the Tax Credits Act 2002 (c. 21)
  - (2) 1992 c. 8; section 2A was inserted by Article 54 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 ([S.I. 1999/3147 \(N.I. 11\)](#)) and amended by sections 2(3), 3(2)(a) and (b) and 29(2) and (4) of the Welfare Reform Act (Northern Ireland) 2010; section 165(1) was amended by paragraph 49(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 ([S.I. 1999/671](#))
  - (3) [S.I. 1995/2705 \(N.I. 15\)](#); Article 10 was amended by paragraph 8 of Schedule 7, paragraph 27(3) of Schedule 8 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 and section 26(3)(a) and 27(1) to (3) of the Welfare Reform Act (Northern Ireland) 2010, Article 36(2) was amended by paragraph 55 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 ([S.I. 1999/671](#)) and paragraph 8A of Schedule 1 was inserted by paragraph 16(2) of Schedule 7 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
  - (4) [S.I. 1997/1183 \(N.I. 12\)](#); Paragraph 8 of Schedule 1 applies to lump sum payments by virtue of Article 3A of the Social Security (Recovery of Benefits) (Northern Ireland) Order 1997, which was inserted by section 8 of the Mesothelioma, etc., Act (Northern Ireland) 2008 (c. 9)
  - (5) [S.I. 1998/1506 \(N.I. 10\)](#); Article 74(1) was amended by paragraph 17(2) of Schedule 4 to the Tax Credits Act 2002
  - (6) See Article 8(b) of [S.R. 1999 No. 481](#)
  - (7) 2002 c. 14 (N.I.)
  - (8) 2007 c. 2 (N.I.)

Regulations 19 and 20 are made with the consent of the Department of Finance and Personnel<sup>(9)</sup>. The Social Security Advisory Committee has agreed that proposals in respect of regulations 19 and 20 should not be referred to it<sup>(10)</sup>.

## PART 1 GENERAL

### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 2) Regulations (Northern Ireland) 2011 and, subject to paragraph (2) shall come into operation on 31st October 2011.

(2) Regulation 6 comes in to operation on 6th April 2012.

(3) The Interpretation Act (Northern Ireland) 1954<sup>(11)</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

### Application

2. Regulations 9(2)(amendments of the Social Security (Incapacity for Work) (General) Regulations) and 21(5) and (6) (amendments to the Employment and Support Allowance Regulations) apply only in relation to information requested in the form of a questionnaire first issued to a person on or after 31st October 2011, in accordance with—

- (a) regulation 6(1)(b) of the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995<sup>(12)</sup> (information required for determining capacity for work); or
- or
- (b) regulations 21(1)(b) (information required for determining capability for work) or 36(1) (a) (information required for determining capability for work-related activity) of the Employment and Support Allowance Regulations (Northern Ireland) 2008<sup>(13)</sup>.

## PART 2 AMENDMENTS TO PRIMARY LEGISLATION

### Amendment of the Social Security Administration (Northern Ireland) Act

3. In section 155(5) of the Social Security Administration (Northern Ireland) Act 1992<sup>(14)</sup> (reciprocal agreements with countries outside the United Kingdom ) for “or this Act” substitute “, this Act or Part 1 of the Welfare Reform Act (Northern Ireland) 2007”.

(9) See section 171(6A) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 as inserted by Article 3(3) of the Social Security (Amendment) (Northern Ireland) Order 1993 (S.I. 1993/1579 (N.I. 8)); *see also* Article 6(b) of S.R. 1999 No. 481

(10) See section 150(1)(b) of the Social Security Administration (Northern Ireland) Act 1992

(11) 1954 c. 33 (N.I.)

(12) S.R. 1995 No. 41; regulation 6(1)(b) was substituted by regulation 2(3)(c) of S.R. 2000 No. 4

(13) S.R. 2008 No. 280

(14) 1992 c. 8.; section 155(5) was amended by paragraph 48(4) of Schedule 2 to the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), paragraph 19(c) of Schedule 2 to the State Pension Credit Act (Northern Ireland) 2002 (c. 14),

### **Amendment of the Data Protection Act**

4. In section 56(6) of the Data Protection Act 1998(15) (prohibition of requirement as to production of certain records) in paragraph 3 of the Table, for “or the Jobseekers (Northern Ireland) Order 1995” substitute “, the Jobseekers (Northern Ireland) Order 1995 or Part 1 of the Welfare Reform Act (Northern Ireland) 2007.”.

## **PART 3**

### **AMENDMENTS TO SECONDARY LEGISLATION**

#### **Amendment of the Social Security Benefit (Dependency) Regulations**

5. In Part 2 of Schedule 2 to the Social Security Benefit (Dependency) Regulations (Northern Ireland 1977(16) (prescribed circumstances for increase of a carer’s allowance)—

- (a) in paragraph 6 (increase of carer’s allowance for adult dependants) for “section 49” substitute “section 90 of the Contributions and Benefits Act”; and
- (b) in paragraph 7 for “the Act” substitute “the Contributions and Benefits Act”.

#### **Amendment of the Statutory Sick Pay (General) Regulations**

6. In regulation 2(1) of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982(17) (persons deemed incapable of work)—

- (a) in sub-paragraph (b)(18), for “by reason of his being a carrier, or having been in contact with” substitute “by reason of it being known or reasonably suspected that he is infected or contaminated by, or has been in contact with”; and
- (b) for sub-paragraphs (cc) and (dd) substitute—
  - “(cc) regulations 8 and 9 of the Public Health (Ships) Regulations (Northern Ireland) 2008(19) (examination etc., of persons on ships and powers in respect of persons leaving ships) apply;
  - (dd) regulations 7 and 8 of the Public Health (Aircraft) Regulations (Northern Ireland) 2008(20) (examination etc., of persons on aircraft and powers in respect of persons leaving aircraft) apply;”.

#### **Amendment of the Income Support (General) Regulations**

7.—(1) The Income Support (General) Regulations (Northern Ireland) 1987(21) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation)—

- (a) after the definition of “board and lodging accommodation”(22) insert—

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Schedule 6 to the Tax Credits Act 2002 (c. 21) and paragraph 4(25)(c) of Schedule 3 to the Welfare Reform Act (Northern Ireland) 2007 (c. 2)

(15) 1998 c. 29; sub-section 6 has amendments not relevant to these Regulations.

(16) S.R. 1977 No. 74; Schedule 2 was amended by paragraph 1(c) of the Schedule to S.R. 2002 No. 323

(17) S.R. 1982 No. 263; relevant amending Regulations are S.R. 2006 No. 142

(18) Sub-paragraph (b) was substituted by regulation 2 of S.R. 2006 No. 142

(19) S.R. 2008 No. 333

(20) S.R. 2008 No. 436

(21) S.R. 1987 No. 459; relevant amending Regulations are S.R. 1988 Nos. 146, 205, 318 and 431, S.R. 1990 No. 33, S.R. 1991 No. 204, S.R. 1992 No. 201, S.R. 1993 Nos. 195 and 233, S.R. 1998 No. 326, S.R. 2000 No. 367, S.R. 2004 Nos. 213 and 389, S.R. 2005 No. 550, S.R. 2006 No. 178, S.R. 2008 No. 428, S.R. 2009 No.68, S.R. 2010 No. 69 and S.R. 2011 No. 135

(22) The definition of “board and lodging accommodation” was inserted by regulation 2(a) of S.R. 1988 No. 431

“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;” and

- (b) in the definition of “qualifying person”(23) after “the Skipton Fund” insert “, the Caxton Foundation”.
- (3) In regulation 21AA(24) (special cases: supplemental – persons from abroad) omit paragraph (4)(f)(i).
- (4) For regulation 42(1) (notional income), substitute—
- “(1) A claimant is to be treated as possessing income of which the claimant has deprived themselves for the purpose of securing entitlement to income support or increasing the amount of that benefit, or for the purpose of securing entitlement to, or increasing the amount of a jobseeker’s allowance or an employment and support allowance.”—
- (5) In—
- (a) regulation 42(4ZA)(a)(25);
- (b) regulation 48(10)(c)(26) (income treated as capital);
- (c) Schedule 3 (housing costs) paragraph 18(8)(b)(27);
- (d) Schedule 9 (sums to be disregarded in the calculation of income other than earnings) paragraphs 21(2)(28) and 39(1)(29); and
- (e) Schedule 10 (capital to be disregarded) paragraph 29(30),
- after “MFET Limited” insert “, the Skipton Fund”, the Caxton Foundation”.
- (6) In—
- (a) regulation 51(3A)(a)(31) (notional capital);
- (b) Schedule 9 paragraph 39(7)(32); and
- (c) Schedule 10 paragraph 22(1)(33) and (7)(34),

- (23) The definition of “qualifying person” was inserted by regulation 5(2)(b) of S.R. 1992 No. 201 and amended by regulation 2(a) of S.R. 2004 No. 213, regulation 2(2)(b) of S.R. 2005 No. 550 and regulation 2(3)(a) of S.R. 2010 No. 69
- (24) Regulation 21AA was inserted by regulation 2(3) of S.R. 2006 No. 178; sub-paragraph (4) was substituted by regulation 2 of S.R. 2006 No. 523 and head (i) of sub-paragraph(4)(f) was amended by regulation 2(a) of S.R. 2009 No. 68
- (25) Paragraph (4ZA) was inserted by regulation 2(2)(b) of S.R. 1998 No. 326 and sub-paragraph (a) was amended by regulation 2(5)(a) of S.R. 2008 No. 428 and regulation 2(3)(b) and (7)(a) of S.R. 2010 No. 69
- (26) Sub-paragraph (c) was amended by regulation 4(3)(b) of S.R. 1990 No. 33, regulation 4(4) of S.R. 1991 No. 204, regulation 5(4) of S.R. 1992 No. 201, regulation 5(3)(b) of S.R. 1993 Nos. 195 and 233, regulation 2(5)(b) of S.R. 2008 No. 428 and regulation 2(3)(c) and (7)(b) of S.R. 2010 No. 69
- (27) Sub-paragraph (8)(b) was amended by regulation 2(5)(e) of S.R. 2008 No. 428 and regulation 2(3)(e) and (7)(d) of S.R. 2010 No. 69
- (28) Paragraph 21 was substituted by regulation 36(d) of S.R. 1988 No. 146 and sub-paragraph (2) was amended by regulation 5(d) of S.R. 1988 No. 205, regulation 4(3)(e) of S.R. 1990 No. 33, regulation 4(7)(a) of S.R. 1991 No. 204, regulation 5(7)(a) of S.R. 1992 No. 201, regulation 5(3)(f) of S.R. 1993 No. 195, regulation 5(4)(a) of S.R. 1993 No. 233, regulation 2(5)(f) of S.R. 2008 No. 428 and regulation 2(3)(f) of S.R. 2010 No. 69
- (29) Paragraph 39(1) was substituted by regulation 4(7)(b) of S.R. 1991 No. 204 and amended by regulation 5(7)(b)(i) of S.R. 1992 No. 201, regulation 5(3)(f) of S.R. 1993 No. 195, regulation 5(4)(b)(i) of S.R. 1993 No. 233, regulation 2(5)(f) of S.R. 2008 No. 428 and regulation 2(3)(f) and (7)(e) of S.R. 2010 No. 69
- (30) Paragraph 29 was added by regulation 25 of S.R. 1988 No. 318 and amended by regulation 4(4) of S.R. 1990 No. 33, regulation 5(8)(b) of S.R. 1992 No. 201, regulation 5(4) of S.R. 1993 No. 195, Article 2(3) of S.R. 2007 No. 382, regulation 2(10) of S.R. 2008 No. 428 and regulation 2(7) (f) and (10) of S.R. 2010 No. 69
- (31) Paragraph (3A) was inserted by regulation 3(2)(b) and (3)(c) of S.R. 1998 No. 326 and sub-paragraph (a) was amended by regulation 2(1) and (2)(b) of S.R. 2004 No. 389, regulation 2(3) of S.R. 2005 No. 550 and regulation 2(5)(c) of S.R. 2008 No. 428 and regulation 2(3)(d) and (7)(c) of S.R. 2010 No. 69
- (32) Paragraph 39(7) was substituted by regulation 4(7)(b) of S.R. 1991 No. 204; sub-paragraph (7) was added by regulation 5(7) (b)(vi) of S.R. 1992 No. 201 and amended by regulation 2(3) and (4) of S.R. 2004 No. 389, regulation 2(4) of S.R. 2005 No. 550 and regulation 2(3)(f) of S.R. 2010 No. 69
- (33) Paragraph 22 was substituted by regulation 4(8)(a) of S.R. 1991 No. 204, sub-paragraph (1) was amended by regulation 5(8) (a)(i) of S.R. 1992 No. 201, regulation 5(5)(a) of S.R. 1993 No. 233, regulation 3(1) and (2)(b) of S.R. 2004 No. 213,

after “the Skipton Fund” insert “, the Caxton Foundation”.

(7) In Schedule 2, paragraph 13A(1A)(35) (applicable amounts: enhanced disability premium) after “claimant” insert “or partner”.

### **Amendment of the Social Security (Claims and Payments) Regulations**

**8.** In paragraph 1 of Schedule 8A to the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987(36) (deductions from benefit and direct payment to third parties) for sub-paragraph (2)(b)(37) substitute—

- “(b) contributory employment and support allowance where—
  - (i) both income-related employment and support allowance and contributory employment and support allowance are in payment and the income-related employment and support allowance alone is insufficient for the purposes of this Schedule, or
  - (ii) if there was no entitlement to a contributory employment and support allowance, there would be entitlement to income-related employment and support allowance at the same rate.”.

### **Amendment of the Social Security (Incapacity for Work) (General) Regulations**

**9.—(1)** The Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995(38) are amended in accordance with paragraphs (2) and (3).

(2) In regulation 7(2) (failure to provide information)—

- (a) in sub-paragraph (a) for “6 weeks” substitute “4 weeks”; and
- (b) in sub-paragraph (b)—
  - (i) for “4 weeks” substitute “3 weeks”; and
  - (ii) for “2 weeks have” substitute “1 week has”.

(3) In regulation 11(1)(39) (person with an infectious or contagious disease)—

- (a) for “by reason of his being a carrier, or having been in contact with” substitute “by reason of it being known or reasonably suspected that he is infected or contaminated by, or has been in contact with”; and
- (b) for sub-paragraphs(b)(ii) and (iii) substitute—
  - “(ii) regulations 8 and 9 of the Public Health (Ships) Regulations (Northern Ireland) 2008(40) (examination etc., of persons on ships and powers in respect of persons leaving ships) apply;

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regulation 2(5)(a)(i) of S.R. 2005 No. 550, regulation 2(5)(g) of S.R. 2008 No. 428 and regulation 2(3)(g) and (7)(f) of S.R. 2010 No. 69

(34) Sub-paragraph (7) was added by regulation 5(8)(a)(vi) of S.R. 1992 No. 201 and amended by regulation 3(4)(b) of S.R. 2004 No. 213, regulation 2(5)(a)(ii) of S.R. 2005 No. 550 and regulation 2(3)(g) of S.R. 2010 No. 69

(35) Paragraph 13A was inserted by regulation 2(c)(ii) of S.R. 2000 No. 367, sub-paragraph (1A) was inserted by regulation 3(6)(a) of S.R. 2011 No. 135

(36) S.R. 1987 No.465; Schedule 8A was inserted by regulation 2(3) of S.R. 1988 No. 67; paragraph 1 was amended by regulation 7(a) of S.R. 2008 No. 413

(37) Sub-paragraph (2) was added by regulation 7(a)(ii) of S.R. 2008 No. 413

(38) S.R. 1995 No. 41; relevant amending Regulation is S.R. 2006 No. 359

(39) Regulation 11 was substituted by regulation 12(2) of S.R. 2006 No. 359

(40) S.R. 2008 No. 333

- (iii) regulations 7 and 8 of the Public Health (Aircraft) Regulations (Northern Ireland) 2008(41) (examination etc., of persons on aircraft and powers in respect of persons leaving aircraft) apply;”.

### **Amendment of the Jobseeker’s Allowance Regulations**

**10.**—(1) The Jobseeker’s Allowance Regulations (Northern Ireland) 1996(42) are amended in accordance with paragraphs (2) to (11).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) after the definition of “board and lodging accommodation” insert—

““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”;

(b) in the definition of “qualifying person”(43) after “the Skipton Fund” insert “, the Caxton Foundation”.

(3) In regulation 51 (remunerative work) omit paragraphs (4) and (5).

(4) In—

(a) regulation 61(1)(d) and (e)(44) and (2)(d) (other young persons in prescribed circumstances); and

(b) regulation 62(1), (2) and (3)(45) (registration),

for “Department of Economic Development” in each place it occurs substitute “Department for Employment and Learning”.

(5) In regulation 85A(46) (special cases: supplemental – persons from abroad) omit paragraph (4)(f)(i).

(6) In regulation 105 (notional income) for paragraph (1) substitute—

“(1) A claimant is to be treated as possessing income of which the claimant has deprived themselves for the purpose of securing entitlement to a jobseeker’s allowance or increasing the amount of that allowance, or for the purpose of securing entitlement to, or increasing the amount of income support or an employment and support allowance.”.

(7) In—

(a) regulation 105(10A)(a)(47);

(b) regulation 110(10)(c)(48) (income treated as capital);

(c) Schedule 2 (housing costs), paragraph 17(8)(b)(49);

(41) S.R. 2008 No. 436

(42) S.R. 1996 No. 198; relevant amending Regulations are S.R. 1998 No. 326, S.R. 2000 Nos. 350 and 367, S.R. 2001 Nos. 78 and 151, S.R. 2004 Nos. 213 and 389, S.R. 2005 No. 550, S.R. 2006 Nos. 178 and 523, S.R. 2008 Nos. 112, 286 and 428, S.R. 2010 No. 69 and S.R. 2011 No. 135

(43) The definition of “qualifying person” was amended by regulation 2(a) of S.R. 2004 No. 213, regulation 4(2)(b) of S.R. 2005 No. 550 and regulation 4(3)(a) of S.R. 2010 No. 69

(44) Sub-paragraphs (d) and (e) were amended by paragraph 19(a) of Schedule to S.R. 2000 No. 350

(45) Regulation 62 was amended by paragraph 20 of Schedule 2 to S.R. 2000 No. 350

(46) Regulation 85A was inserted by regulation 4(3) of S.R. 2006 No. 178 and paragraph 4(f) was substituted by regulation 3(1) of S.R. 2006 No. 523

(47) Paragraph (10A) was inserted by regulation 2(1)(b) of S.R. 1998 No. 326; sub-paragraph (a) was amended by regulation 4(5)(a) of S.R. 2008 No. 428 and regulation 4(3)(b) and (8)(a) of S.R. 2010 No. 69

(48) Sub-paragraph (c) was amended by regulation 4(5)(b) of S.R. 2008 No. 428 and regulation 4(3)(c) and (8)(b) of S.R. 2010 No. 69

(49) Head (b) was amended by regulation 4(5)(e) of S.R. 2008 No. 428 and regulation 4(3)(e) and (8)(d) of S.R. 2010 No. 69

- (d) Schedule 6 (sums to be disregarded in the calculation of income other than earnings), paragraphs 22(2)(**50**) and 41(1)(**51**); and
  - (e) Schedule 7 (capital to be disregarded), paragraph 31(**52**),
- after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(8) In—

- (a) regulation 113(3A)(a)(**53**) (notional capital);
- (b) Schedule 6, paragraph 41(7)(**54**); and
- (c) Schedule 7, paragraph 27(1)(**55**),

after “the Skipton Fund” insert “, the Caxton Foundation”.

(9) In Schedule A1(**56**) (categories of members of a joint-claim couple who are not required to satisfy the conditions in Article 3(2B)(b) of the Order), after paragraph 6A(**57**) (member has limited capability for work) insert—

“**6B.**—(1) Subject to sub-paragraph (2), a person who provides—

- (a) a statement which complies with the rules in Part 1 of Schedule 1 to the Social Security (Medical Evidence) Regulations 1976(**58**),
- (b) a self-certificate for a period of limited capability for work which lasts less than 8 days or in respect of any of the first 7 days of limited capability for work, or
- (c) where it would be unreasonable to require a person to provide a statement in accordance with paragraph (a), such other evidence as the Department considers to be sufficient to show that the person has limited capability for work.

(2) Sub-paragraph (1) applies to a person for the period covered by evidence falling within that sub-paragraph.

(3) For the purposes of this paragraph—

- (a) “limited capability for work” has the meaning given by section 1(4) of the Welfare Reform Act (Northern Ireland) 2007(**59**); and
- (b) “self-certificate” means a declaration made by the person in writing on a form approved for the purpose by the Department that the person has been unfit for work on a date or for a period specified in the declaration and may include a statement that the person expects to continue to be unfit for work on days subsequent to the date on which it is made.”.

(10) In paragraph 15A(1A) of Schedule 1(**60**) (applicable amounts: enhanced disability premium) after “claimant” insert “or partner”.

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(**50**) Sub-paragraph (2) was amended by regulation 4(5)(f) of [S.R. 2008 No. 428](#) and regulation 4(3)(f) of [S.R. 2010 No. 69](#)

(**51**) Sub-paragraph (1) was amended by regulation 4(5)(f) of [S.R.2008 No. 428](#) and regulation 4(8)(e) and (12)(a) of [S.R. 2010 No. 69](#)

(**52**) Paragraph 31 was amended by regulation 4(5)(g) of [S.R. 2008 No. 428](#) and regulation 4(3)(g) and (8)(f) of [S.R. 2010 No. 69](#)

(**53**) Paragraph (3A) was inserted by regulation 3(1)(b) of [S.R. 1998 No. 326](#); sub-paragraph (a) was amended by regulation 2(1) and (2)(c) of [S.R. 2004 No. 389](#), regulation 4(3) of [S.R. 2005 No. 550](#), regulation 4(5)(c) of [S.R. 2008 No. 428](#) and regulation 4(3)(d) and (8)(c) of [S.R. 2010 No. 69](#)

(**54**) Sub-paragraph (7) was added by regulation 2(5) of [S.R. 2004 No. 389](#) and amended by regulation 4(4) of [S.R. 2005 No. 550](#) and regulation 4(12)(b) of [S.R. 2010 No. 69](#)

(**55**) Paragraph 27(1) was amended by regulation 3(5) and (6)(b) of [S.R. 2004 No. 213](#), regulation 4(5)(a) of [S.R. 2005 No. 550](#), regulation 4(5)(g) of [S.R. 2008 No. 428](#) and regulation 4(3)(g) and (8)(f) of [S.R. 2010 No. 69](#)

(**56**) Schedule A1 was inserted by regulation 2(4) and Schedule 1 to [S.R. 2000 No. 350](#)

(**57**) Paragraph 6A was inserted by regulation 19(23)(a) of [S.R. 2008 No. 286](#)

(**58**) [S.R. 1976 No. 175](#); Schedule 1 was substituted by regulation 2(3) of [S.R. 2010 No. 55](#)

(**59**) [2007 c. 2 \(N.I.\)](#)

(**60**) Paragraph 15A was inserted by regulation 4(c)(ii) of [S.R. 2000 No. 367](#); sub-paragraph (1A) was inserted by regulation 7(7)(a) of [S.R. 2011 No. 135](#)

## (11) In Schedule 2—

- (a) in paragraph 4(4A)(b)(**61**) (housing costs not met) for “failed to satisfy the condition specified either in Article 4(1)(c), 5(1)(a) or 5A(1)(a) of the Order” substitute “had income equal to or in excess of the prescribed amount of earnings calculated under regulation 56 or the applicable amount determined in accordance with regulations 83 to 86C, whichever applies”; and
- (b) in paragraph 13(14)(c)(**62**) (linking rule) for “he or his partner was engaged in remunerative work or failed to satisfy the conditions specified in Article 4(1)(c) or 5(1)(a) of the Order or the joint-claim couple of which he was a member failed to satisfy the condition in Article 5A(1)(a) of the Order” substitute “ that person, their partner or, where that person is a member of a joint-claim couple, the other member of that couple, was engaged in remunerative work or had income equal to or in excess of the prescribed amount of earnings calculated under regulation 56 or the applicable amount determined in accordance with regulations 83 to 86C, whichever applies”.

**Amendment of the Social Security (Recovery of Benefits) Regulations**

**11.** In regulation 2(2) of the Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997(**63**) (exempted trusts and payments) after sub-paragraph (l)(**64**) add—

- “(m) any payment made from the Caxton Foundation, the charitable trust of that name established on 28th March 2011, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions.”.

**Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations**

**12.** In regulation 3 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**65**) (revision of decisions)—

- (a) after paragraph (5C) insert—
  - “(5D) A decision by the Department under Article 9 or 11 awarding an employment and support allowance may be revised at any time if—
    - (a) it incorporates a determination that the conditions in regulation 30 of the Employment and Support Allowance Regulations are satisfied;
    - (b) the condition referred to in sub-paragraph (a) was not satisfied at the time when the claim was made; and
    - (c) there is a period before the award which falls to be decided.”.
- (b) after paragraph (5F)(**66**) insert—
  - “(5G) Where—
    - (a) a person’s entitlement to an employment and support allowance is terminated because of a decision which embodies a determination that the person does not have limited capability for work;
    - (b) the person appeals that decision to the appeal tribunal;

(61) Sub-paragraph (4A) was inserted by regulation 13(2) of S.R. 1997 No. 541 and amended by paragraph 54(4)(c) of Schedule 2 to S.R. 2000 No. 350 and regulation 4(14)(a) of S.R. 2008 No. 112

(62) Sub-paragraph (14) was inserted by regulation 12(b)(iii) of S.R. 2001 No. 78; head (c) was amended by regulation 9(b)(iii) of S.R. 2001 No.151 and regulation 4(14)(b) of S.R. 2008 No. 112

(63) S.R. 1997 No. 429

(64) Sub-paragraph (l) was added by regulation 5 of S.R. 2010 No. 69

(65) S.R. 1999 No. 162; regulation 3(5C) and (5D) was inserted by regulation 22(3)(c) of S.R. 2008 No. 286 and paragraph (5D) was revoked by regulation 3(2)(a) of S.R. 2009 No. 240

(66) Paragraph (5F) was inserted by regulation 7(2) of S.R. 2010 No. 200

- (c) before or after that decision is appealed by the person, that person claims and there is a decision to award—
  - (i) income support, or
  - (ii) jobseeker’s allowance; and
- (d) the decision referred to in sub-paragraph (a) is successfully appealed, the decision to award income support or jobseeker’s allowance may be revised.

(5H) Where—

- (a) a conversion decision within the meaning of regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations 2010<sup>(67)</sup> (deciding whether an existing award qualifies for conversion) is made in respect of a person;
- (b) the person appeals that decision to the appeal tribunal;
- (c) before or after that decision is appealed by the person, that person claims and there is a decision to award—
  - (i) income support, or
  - (ii) jobseeker’s allowance; and
- (d) the decision referred to in sub-paragraph (a) is successfully appealed, the decision to award income support or jobseeker’s allowance may be revised.”.

#### **Amendment of the Social Security (Work-focused Interviews for Lone Parents) Regulations**

**13.**—(1) The Social Security (Work-focused Interviews for Lone Parents) Regulations (Northern Ireland) 2001<sup>(68)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2ZA(1)<sup>(69)</sup> (requirement for certain lone parents to take part in an interview)—

- (a) at the end of sub-paragraph (b), omit “and”;
- (b) in sub-paragraph (c)—
  - (i) for “6” in both places substitute “4, 5 or 6”; and
  - (ii) at the end of sub-paragraph (c) add—  
“, and  
(d) he has attained the age of 18.”.

(3) In regulation 8 (reduction of income support)—

- (a) in paragraph (1) omit “on the date the deduction commences”; and
- (b) omit paragraph (4).

#### **Amendment of the State Pension Credit Regulations**

**14.**—(1) The State Pension Credit Regulations (Northern Ireland) 2003<sup>(70)</sup> are amended in accordance with paragraphs (2) to (6).

(2) In regulation 1(2) (citation, commencement and interpretation)—

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<sup>(67)</sup> S.R. 2010 No.312

<sup>(68)</sup> S.R. 2001 No. 152; relevant amending Regulation is S.R. 2008 No. 478

<sup>(69)</sup> Regulation 2ZA was inserted by regulation 5(3) and amended by regulations 6 and 7 of S.R. 2008 No. 478

<sup>(70)</sup> S.R. 2003 No. 28; relevant amending Regulations are S.R. 2004 No. 213, S.R. 2005 Nos. 424 and 550, S.R. 2006 Nos. 178 and 523, S.R. 2009 No. 92 and S.R. 2010 No. 69

- (a) after the definition of “board and lodging accommodation”(71) insert—  
 ““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”; and
- (b) in the definition of “qualifying person”(72) after “the Skipton Fund” insert “, the Caxton Foundation”.
- (3) In regulation 2(73) (persons not in Northern Ireland) omit paragraph (4)(f)(i)(74).
- (4) In regulation 24 (income paid to third parties)—  
 (a) in paragraph (1) for “paragraph (2)” substitute “paragraphs (2) or (3)”; and  
 (b) after paragraph (2) insert—  
 “(3) Paragraph (1) shall not apply in respect of any payment of income arising out of the claimant’s participation in a service user group.”.
- (5) In Schedule 2 (housing costs) in paragraph 14(8)(b)(75) after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.
- (6) In Schedule 5 (income from capital)—  
 (a) in paragraph 15(1)(76) and (7)(77) after “the Skipton Fund” insert “, the Caxton Foundation”; and  
 (b) after paragraph 23B(78) insert—  
 “23C. Any payments made under regulations made under section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (direct payments)(79).”.

### **Amendment of the Social Security (Work-focused Interviews) Regulations**

- 15.**—(1) The Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2003(80) are amended in accordance with paragraphs (2) to (3).
- (2) In regulation 3A(1)(81) (requirement for certain lone parents to take part in an interview)—  
 (a) at the end of sub-paragraph (b) omit “and”;  
 (b) in sub-paragraph (c), for “6” substitute “4, 5 or 6”;  
 (c) at the end of sub-paragraph (c) insert —  
 “, and  
 (d) he has attained the age of 18.”.
- (3) In regulation 11(82) (failure to take part in an interview)—  
 (a) in paragraph (2)(c) omit “on the date the reduction commences”; and

(71) The definition of “board and lodging accommodation” was inserted by regulation 5(2) of [S.R. 2005 No. 424](#)

(72) The definition of “qualifying person” was amended by regulation 2 of [S.R. 2004 No. 213](#), regulation 6(2)(b) of [S.R. 2005 No. 550](#) and regulation 6(3)(a) of [S.R. 2010 No. 69](#)

(73) Regulation 2 was substituted by regulation 5 of [S.R. 2006 No. 178](#)

(74) Paragraph (f) was substituted by regulation 4(1) of [S.R. 2006 No. 523](#)

(75) Sub-paragraph (8)(b) was amended by regulation 5(3)(c) of [S.R. 2008 No. 428](#) and regulation 6(3)(b) of [S.R. 2010 No. 69](#)

(76) Sub-paragraph (1) was amended by regulation 3(1) and (2)(c) of [S.R. 2004 No. 213](#), regulation 6(3)(a)(i) of [S.R. 2005 No. 550](#), regulation 5(4) of [S.R. 2008 No. 428](#) and regulation 6(3)(c) and (7) of [S.R. 2010 No. 69](#)

(77) Sub-paragraph (7) was amended by regulation 3(4)(c) of [S.R. 2004 No. 213](#), regulation 6(3)(a)(ii) of [S.R. 2005 No. 550](#) and regulation 6(3)(c) of [S.R. 2010 No. 69](#)

(78) Paragraph 23B was inserted by regulation 5(4) of [S.R. 2009 No. 92](#)

(79) [2002 c. 6 \(N.I.\)](#)

(80) [S.R. 2003 No. 274](#)

(81) Regulation 3A was inserted by regulation 8(3) and amended by regulation 10 of [S.R. 2008 No. 478](#)

(82) Regulation 11 was amended by regulation 8(7) of [S.R. 2008 No. 478](#) and regulation 2(8)(b) of [S.R. 2005 No. 443](#)

- (b) omit paragraph (8).

#### **Amendment of the Social Security (Work-focused Interviews for Partners) Regulations**

**16.** In regulation 10 of the Social Security (Work-focused Interviews for Partners) Regulations (Northern Ireland) 2003(**83**)(failure to take part in an interview)—

- (a) in paragraph (2) omit “on the date the reduction commences”; and
- (b) omit paragraph (8).

#### **Amendment of the Social Security (Habitual Residence Amendment) Regulations**

**17.** In regulation 6 of the Social Security (Habitual Residence Amendment) Regulations (Northern Ireland) 2004(**84**) (transitional arrangements and savings)—

- (a) after paragraph (1)(c) add—
  - “(ca) to whom sub-paragraph (c) applied, claims an employment and support allowance and it is subsequently determined that he is entitled to that benefit, and this entitlement is linked to a previous period of entitlement by virtue of regulation 145(1) of the Employment and Support Allowance Regulations (linking rules);”;
- (b) in paragraph (2)—
  - (i) after sub-paragraph (c) omit “and”, and
  - (ii) after sub-paragraph (d) add—
    - “; and
    - (e) regulation 70(2) to (4) of the Employment and Support Allowance Regulations (special cases: supplemental – persons from abroad) does not apply.”; and
- (c) for paragraph (4) substitute—
  - “(4) In this regulation—
    - (a) “the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations (Northern Ireland) 2008(**85**); and
    - (b) “specified benefit” means income support, housing benefit, jobseeker’s allowance, state pension credit and employment and support allowance.”.

#### **Amendment of the Social Fund Maternity and Funeral Expenses (General) Regulations**

**18.** In regulation 10 of the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005(**86**) (deductions from an award of a funeral payment)—

- (a) in paragraph (2)—
  - (i) omit the “or” at the end of sub-paragraph (h)(**87**), and
  - (ii) after sub-paragraph (i) add—
    - “or
    - (j) the Caxton Foundation,”; and

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(83) S.R. 2003 No. 405

(84) S.R. 2004 No. 197, these Regulations were revoked by regulation 8(1)(d) (but transitional arrangements and savings in regulation 6 continue in operation by virtue of regulation 8(2)(b) of S.R. 2006 No. 178

(85) S.R. 2008 No. 280

(86) S.R. 2005 No. 506; relevant amending Regulations are S.R. 2005 No. 550 and S.R. 2010 No. 69

(87) Sub-paragraph (h) was amended and sub-paragraph (i) was added by regulation 7(a)(iii) S.R. 2010 No. 69

- (b) in paragraph (3)(**88**) for “and “the London Bombings Relief Charitable Fund”” substitute “, “the London Bombings Relief Charitable Fund” and “the Caxton Foundation””.

### **Amendment of the Housing Benefit Regulations**

**19.**—(1) The Housing Benefit Regulations (Northern Ireland) 2006(**89**) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “broad rental market area determination”(**90**) insert—

““the Caxton Foundation” means the charitable trust of that name established on 28<sup>th</sup> March 2011, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”; and

(b) in the definition of “qualifying person”(**91**) after “the Skipton Fund” insert “, the Caxton Foundation”.

(3) In regulation 10 (persons from abroad) omit paragraph 5(f)(i)(**92**).

(4) In regulation 34 (earnings of self-employed earners), in paragraph (1) omit the words beginning “and shall include” to the end of the paragraph.

(5) In—

(a) regulation 39(7)(a)(**93**) (notional income);

(b) regulation 43(6)(**94**) (income treated as capital);

(c) regulation 72(9)(b)(**95**) (non-dependant deductions);

(d) Schedule 6 (sums to be disregarded in the calculation of income other than earnings), paragraph 37(1)(**96**); and

(e) Schedule 7 (capital to be disregarded), paragraph 35(**97**),

after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(6) In—

(a) regulation 46(4)(a)(**98**) (notional capital);

(b) regulation 82(4)(a)(ii)(**99**) (evidence and information);

(c) Schedule 6, paragraph 37(7)(**100**); and

(d) Schedule 7, paragraph 25(1) and (7)(**101**),

(**88**) Paragraph (3) was amended by regulation 7 (b) of S.R. 2005 No. 550 and regulation 7(b) of S.R. 2010 No. 69

(**89**) S.R. 2006 No. 405; relevant amending Rules are S. R. 2006 No.523, S.R. 2007 No. 382, S.R. 2008 Nos. 101, 378 and 428, S.R. 2010 Nos. 69 and 103 and S.R. 2011 Nos. 135 and 136

(**90**) The definition of “broad rental market area determination” was inserted by regulation 2(2)(b) of S.R. 2008 No. 101

(**91**) The definition of “qualifying person” was amended by regulation 8(3)(a) of S.R. 2010 No. 69

(**92**) Sub-paragraph (f) was substituted by regulation 5(1) of S.R. 2006 No. 523

(**93**) Regulation 39(7)(a) was amended by regulation 6(3)(a) of S.R. 2008 No. 428 and regulation 8(3)(b) and (5)(a) of S.R. 2010 No. 69

(**94**) Regulation 43(6) was amended by regulation 6(3)(b) of S.R. 2008 No. 428 and regulation 8(3)(c) and (5)(b) of S.R. 2010 No. 69

(**95**) Regulation 72(9)(b) was amended by regulation 6(3)(d) of S.R. 2008 No. 428 and regulation 8(3)(e) and (5)(d) of S.R. 2010 No. 69

(**96**) Paragraph 37(1) was amended by regulation 6(3)(f) of S.R. 2008 No. 428 and regulation 8(3)(g) and (5)(f) of S.R. 2010 No. 69

(**97**) Paragraph 35 was amended by Article 7(3) of S.R. 2007 No. 382, regulation 6(7)(a) of S.R. 2008 No. 428 and regulation 8(5) (g) and (10) of S.R. 2010 No. 69

(**98**) Regulation 46(4)(a) was amended by regulation 6(3)(c) of S.R. 2008 No. 428 and regulation 8(3)(d) and (5)(c) of S.R. 2010 No. 69

(**99**) Paragraph (4)(a) was amended by regulation 8(3)(f) and (5)(e) of S.R. 2010 No. 69

(**100**) Sub-paragraph (7) was amended by regulation 8(3)(g) of S.R. 2010 No. 69

(**101**) Paragraph 25(1) was amended by regulation 6(3)(g) of S.R. 2008 No. 428 and regulation 8(3)(h) and (5)(g) of S.R. 2010 No. 69 and sub-paragraph (7) was amended by regulation 8(3)(h) of S.R. 2010 No. 69

after the “the Skipton Fund” insert “, the Caxton Foundation”.

- (7) In Schedule 4 (applicable amounts)—
  - (a) in paragraph 3 (family premium)—
    - (i) in sub-paragraph (1) omit “Subject to sub-paragraph (2),” and
    - (ii) omit sub-paragraph (2)(**102**); and
  - (b) in paragraph 15(1A)(**103**) (enhanced disability premium) after “claimant” insert “or the claimant’s partner”.

### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations**

**20.**—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (**104**) are amended in accordance with paragraphs (2) to (9).

- (2) In regulation 2(1) (interpretation)—
  - (a) after the definition of “broad rental market area determination”(**105**) insert—

““the Caxton Foundation” means the charitable trust of that name established on 28<sup>th</sup> March 2011, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;” and
  - (b) in the definition of “qualifying person”(**106**), after “the Skipton Fund” insert “, the Caxton Foundation”.
- (3) In regulation 10 (persons from abroad) omit paragraph 5(f)(i)(**107**).
- (4) In regulation 36(1) (earnings of self-employed earners) omit the words beginning “and shall include” to the end of the paragraph.
- (5) In regulation 40 (income paid to third parties)—
  - (a) in paragraph (1) for “paragraph (2)” substitute “paragraphs (2) or (3)”; and
  - (b) after paragraph (2) add—

“(3) Paragraph (1) shall not apply in respect of any amount of income other than earnings, or earnings derived from employment as an employed earner, arising out of the claimant’s participation in a service user group.”
- (6) In regulation 53(10)(b)(**108**) (non-dependant deductions) after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.
- (7) In—
  - (a) regulation 63(4)(a)(ii)(**109**) (evidence and information); and
  - (b) Schedule 7 (capital to be disregarded) paragraph 16(1)(a)(**110**),after “the Skipton Fund” insert “, the Caxton Foundation”.

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(**102**) Sub-paragraph (2) was substituted by regulation 4(7)(a) of S.R. 2011 No. 136

(**103**) Paragraph 15 was amended by regulation 3(17)(c) of S.R. 2008 No. 378 and regulation 8(3)(b) of S.R. 2010 No. 103; sub-paragraph (1A) was inserted by regulation 12(2)(a)(i) of S.R. 2011 No. 135

(**104**) S.R. 2006 No. 406; relevant amending Regulations are S.R. 2006 No. 523, S.R. 2008 Nos. 101 and 428, S.R. 2009 No. 92, S.R. 2010 No. 69 and S.R. 2011 Nos. 135 and 136

(**105**) The definition of “broad rental market area determination” was inserted by regulation 2(2)(b) of S.R. 2008 No. 102

(**106**) The definition of “qualifying person” was amended by regulation 9(3)(a) of S.R. 2010 No. 69

(**107**) Sub-paragraph (f) was substituted by regulation 5(1) of S.R. 2006 No. 523

(**108**) Sub-paragraph (b) was amended by regulation 7(3)(b) of S.R. 2008 No. 428 and regulation 9(3)(b) and (5)(a) of S.R. 2010 No. 69

(**109**) Paragraph (4)(a)(ii) was amended by regulation 9(3)(c) and (5)(b) of S.R. 2010 No. 69

(**110**) Sub-paragraph(1)(a) was amended by regulation 9(3)(d) and (5)(c) of S.R. 2010 No. 69

- (8) In Schedule 4 (applicable amounts)—
- (a) in paragraph 3 omit sub-paragraph (2)(**111**); and
  - (b) in paragraph 7(2)(**112**) (enhanced disability premium) after “claimant” insert “or the claimant’s partner”.
- (9) In Schedule 7 (capital to be disregarded)
- (a) after paragraph 28B(**113**) insert—
 

**“28C.** Any payments made under regulations made under section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002 (direct payments)(**114**).”

### **Amendment of the Employment and Support Allowance Regulations**

**21.**—(1) The Employment and Support Allowance Regulations (Northern Ireland) 2008(**115**) are amended in accordance with paragraphs (2) to (16).

- (2) In regulation 2(1) (interpretation)—
- (a) after the definition of “carer’s allowance” insert—
 

““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”;
  - (b) in the definition of “qualifying person”(116) after “the Skipton Fund” insert “, the Caxton Foundation”; and
  - (c) in the definition of “relevant disease” for paragraphs (b) and (c) substitute—
    - “(b) regulations 8 and 9 of the Public Health (Ships) Regulations (Northern Ireland) 2008(**117**) (examination etc., of persons on ships and powers in respect of persons leaving ships) apply; or
    - (c) regulations 7 and 8 of the Public Health (Aircraft) Regulations (Northern Ireland) 2008(**118**) (examination etc., of persons on aircraft and powers in respect of persons leaving aircraft) apply; ”.
- (3) In regulation 8(1) (relaxation of the first contribution condition), for sub-paragraph (b)(**119**) substitute—
- “(b) the claimant has—
    - (i) earnings at the lower earnings limit in that tax year on which primary Class 1 contributions have been paid or treated as paid which in total, and disregarding any earnings which exceed the lower earnings limit for that year, are not less than that limit multiplied by 26; or
    - (ii) earnings factors in that tax year derived from Class 2 contributions multiplied by 26.”.
- (4) In regulation 20(c) (certain claimants to be treated as having limited capability for work), for “by reason of the claimant being a carrier, or having been in contact with” substitute “by reason

(111) Sub-paragraph (2) was substituted by regulation 5(7) of S.R. 2011 No. 136

(112) Paragraph 7 was renumbered by regulation 13(a)(i) and sub-paragraph (2) was added by regulation 13(a)(iii) of S.R. 2011 No. 135

(113) Paragraph 28B was inserted by regulation 7(7) of S.R. 2009 No. 92

(114) 2002 c. 6 (N.I.)

(115) S.R. 2008 No. 280; relevant amending Regulations are S.R. 2010 Nos. 69, 200, 346 and 347

(116) The definition of “qualifying person” was amended by regulation 10(3)(a) of S.R. 2010 No. 69

(117) S.R. 2008 No. 333

(118) S.R. 2008 No. 436

(119) Sub-paragraph (b) was substituted by regulation 3(3) of S.R. 2010 No. 346

of it being known or reasonably suspected that the claimant is infected or contaminated by, or has been in contact with.”.

(5) In—

(a) regulation 22(2)(a) (failure to provide information in relation to limited capability for work); and

(b) regulation 37(2)(a) (failure to provide information in relation to work-related activity), for “6 weeks” substitute “4 weeks”.

(6) In—

(a) regulation 22(2)(b); and

(b) regulation 37(2)(b)—

(i) for “4 weeks” substitute “3 weeks”, and

(ii) for “2 weeks have” substitute “1 week has”.

(7) In regulation 70 (special cases: supplemental – persons from abroad) omit paragraph (4)(f)(i).

(8) In—

(a) regulation 107(5)(a)(**120**) (notional income – income due to be paid or income paid to or in respect of a third party);

(b) regulation 112(8)(**121**) (income treated as capital);

(c) Schedule 6 (housing costs) paragraph 19(8)(b)(**122**);

(d) Schedule 8 (sums to be disregarded in the calculation of income other than earnings), paragraphs 21(2)(**123**) and 40(1)(**124**); and

(e) Schedule 9 (capital to be disregarded) paragraph 31(**125**),

after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(9) In—

(a) regulation 115(5)(a)(**126**) (notional capital);

(b) Schedule 8 paragraph 40(7)(**127**); and

(c) Schedule 9 paragraph 27(1) and (7)(**128**),

after “the Skipton Fund” insert “, the Caxton Foundation”.

(10) In regulation 147A(5)(**129**) (claimants appealing a decision)—

(a) in sub-paragraph (c) for “or struck out,” substitute “, struck out or has been discontinued in accordance with the provisions of regulation 33(9) of the Decisions and Appeals Regulations (making of appeals and applications)(**130**);”; and

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(**120**) Paragraph 5(a) was amended by regulation 10(3)(b) and (5)(a) of [S.R. 2010 No. 69](#)

(**121**) Regulation 112(8) was amended by regulation 10(3)(c) and (5)(b) of [S.R. 2010 No. 69](#)

(**122**) Sub-paragraph (8)(b) was amended by regulation 10(3)(e) and (5)(d) of [S.R. 2010 No. 69](#)

(**123**) Sub-paragraph (2) was amended by regulation 10(3)(f) of [S.R. 2010 No. 69](#)

(**124**) Sub-paragraph (1) was amended by regulation 10(3)(f) and (5)(e) of [S.R. 2010 No. 69](#)

(**125**) Paragraph (31) was amended by regulation 10(3)(g) of [S.R. 2010 No. 69](#)

(**126**) Sub-paragraph (a) was amended by regulation 10(3)(d) and (5)(c) of [S.R. 2010 No. 69](#)

(**127**) Sub-paragraph (7) was amended by regulation 10(3)(f) of [S.R. 2010 No. 69](#)

(**128**) Sub-paragraphs (1) and (7) were both amended by regulation 10(3)(g) and sub-paragraph (1) was further amended by regulation 10(5)(f) of [S.R. 2010 No. 69](#)

(**129**) Regulation 147A was inserted by regulation 9(15) of [S.R. 2010 No. 200](#)

(**130**) [S.R. 1999 No. 162](#); regulation 33(9) was added by regulation 6(10) of [S.R. 2000 No. 215](#) and amended by regulation 2(10)(b) of [S.R. 2002 No. 189](#)

- (b) after the words “is to be treated as not having limited capability for work”, for the remainder of paragraph (5) substitute “with effect from the day specified in paragraph (5A).”.
- (11) After regulation 147A(5) insert—
- “(5A) The day specified for the purposes of paragraph (5) is the first day of the benefit week following the date on which the Department either—
- (a) receives the clerk of the appeal tribunal’s notification that the appeal is dismissed, withdrawn or struck out, or
  - (b) discontinues action on an appeal in the circumstances to which regulation 33(9) (Decisions and Appeals) Regulations applies.”.
- (12) In regulation 148(3)(**131**) (work or training beneficiaries) after the definition of “linking term” insert—
- ““most recent past period of limited capability for work” means the period of limited capability for work which most recently precedes the period in respect of which the current claim is made, including any period of which that previous period is treated as a continuation by virtue of regulation 145(1) or (2) (linking rules);”.
- (13) In regulation 161(1)(a) (suspension of payment of a contributory allowance during imprisonment) for “(2)” substitute “(1)”.
- (14) In Schedule 4 (amounts), in paragraph 6 (severe disability premium) in—
- (a) sub-paragraph (2)(a)(i); and
  - (b) sub-paragraph (2)(b)(i),
- after “care component” insert “or attendance allowance”.
- (15) In Schedule 6, paragraph 15 (linking rules) in sub-paragraphs (4)(b) and (17) after “income” insert “equal to or”.

### **Amendment of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations**

**22.** In regulation 7(2) of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (Northern Ireland) 2008(**132**) (exempted trusts and payments) after sub-paragraph (i)(**133**) add—

- “(j) any payment made from the Caxton Foundation, the charitable trust of that name established on 28th March 2011, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions.”.

### **Amendment of the Social Security (Incapacity Benefit Work-focused Interviews) Regulations**

**23.** In regulation 8 (consequences of a failure to take part in a work-focused interview) of the Social Security (Incapacity Benefit Work-focused Interviews) Regulations (Northern Ireland) 2008(**134**)—

- (a) in paragraph (2) for “(6)” substitute “(5)”; and
- (b) omit paragraph (6).

(131) Paragraph (3) was amended by regulation 6(2)(b) of S.R. 2010 No. 347

(132) S.R. 2008 No. 355

(133) Sub-paragraph (i) was added by regulation 11 of S.R. 2010 No. 69

(134) S.R. 2008 No. 465

### **Amendment of the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations**

**24.**—(1) The Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations (Northern Ireland) 2008(**135**) are amended in accordance with paragraphs (2) and (3).

(2) In Part 2, regulation 5(a)(**136**) (modification of the Jobseeker’s Allowance Regulations) after paragraph 4(A)(3) (housing costs: limitation applicable to qualifying loans) add—

“(4) In determining whether the exemption provided for in sub-paragraph (3) applies, where the claimant or his partner or, if the claimant is a member of a joint-claim couple, the other member of the couple was in receipt of a jobseeker’s allowance immediately before becoming entitled to income support by virtue of regulation 6(6) of the Income Support Regulations, no account shall be taken of entitlement arising by virtue of that regulation.”.

(3) In Part 3, regulation 10(b)(**137**) (modification of the Jobseeker’s Allowance Regulations) paragraph 4A (housing costs: limitation to qualifying loans)—

(a) in sub-paragraph (2) for “(6)” substitute “(7)”; and

(b) after sub-paragraph (6) add—

“(7) In determining whether the exemption provided for in sub-paragraph (6) applies, where the claimant or his partner or, if the claimant is a member of a joint-claim couple, the other member of the couple was in receipt of a jobseeker’s allowance immediately before becoming entitled to income support by virtue of regulation 6(6) of the Income Support Regulations, no account shall be taken of entitlement arising by virtue of that regulation.”.

### **Amendment of the Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations**

**25.**—(1) The Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010(**138**) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 6(1)(b) (application of certain statutory provisions for purpose of making conversion decisions) after “revision” insert “or supersession”.

(3) In regulation 17(**139**) (changes of circumstances before the effective date) in paragraphs (d) and (e) after “revise” insert “or supersede”.

(4) In Schedule 2 (modification of statutory provisions: after the conversion phase)—

(a) in paragraph 4(i)(**140**), which modifies regulation 147A of the Employment and Support Allowance Regulations (claimants appealing a decision)—

(i) in paragraph (5) of the modified regulation 147A—

(aa) in sub-paragraph (c), for “or struck out,” substitute “, struck out or has been discontinued in accordance with the provisions of regulation 33(9) of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (making of appeals and application)(**141**),”; and

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(135) S.R. 2008 No. 503 as amended by S.R. 2009 No. 426

(136) Regulation 5(a) which inserted new paragraph 4A was amended by regulation 3 of S.R. 2009 No. 426

(137) Regulation 10(b) was substituted by regulation 5 of S.R. 2009 No. 426

(138) S.R. 2010 No. 312; relevant amending Regulation is S.R. 2010 No. 347

(139) Regulation 17 was amended by regulation 2(8) of S.R. 2010 No. 347

(140) Paragraph 4(i) was amended by regulation 2(14)(c) of S.R. 2010 No. 347

(141) S.R. 1999 No. 162; Regulation 33(9) was added by regulation 6(10) of S.R. 2000 No. 215 and amended by regulation 2(10) (b) of S.R. 2002 No. 189

- (bb) after the words “is to be treated as not having limited capability for work”, for the remainder of paragraph (5) substitute “with effect from the day specified in paragraph (5A).”;
- (ii) after paragraph (5) of the modified regulation 147A insert—
  - “(5A) The day specified for the purposes of paragraph (5) is the first day of the benefit week following the date on which the Department either—
    - (a) receives the notification from the clerk to the appeal tribunal that the appeal is dismissed, withdrawn or struck out, or
    - (b) discontinues action on an appeal in the circumstances to which regulation 33(9) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (making of appeals and application) applies.”; and
  - (iii) in paragraph (6) of the modified regulation 147A, for “on the first day of the benefit week following the date on which the Department was notified by the appeal tribunal of that decision” substitute “from the first day of the benefit week following the date on which the Department receives the appeal tribunal’s notification of that decision”; and
- (b) after paragraph 6 (modification of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations) add—

*“Social Security (Habitual Residence) Amendment Regulation*

7. Regulation 6 of the Social Security (Habitual Residence) Amendment Regulations (Northern Ireland) 2004(142) (transitional arrangements and savings) is to be read as if—

- (a) in paragraph (1)—
  - (i) sub-paragraphs (a), (b) and (d) were omitted; and
  - (ii) for sub-paragraph (c) there were substituted—
    - “(c) is entitled to an employment and support allowance by virtue of—
      - (i) the Existing Awards Regulations, or
      - (ii) regulation 30 of the Employment and Support Allowance Regulations (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made) in the circumstances where the person has made and is pursuing an appeal against a conversion decision made under the Existing Awards Regulations which embodies a determination that the person does not have limited capability for work,

and immediately before the effective date of the conversion decision made in respect of that person, was entitled to a specified benefit in respect of a period which was continuous with a period of entitlement to the same or another specified benefit which included 30th April 2004;” and
- (b) in paragraph (4), before sub-paragraph (a) there were inserted—

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(142) S.R. 2004 No. 197, these Regulations were revoked by regulation 8(1)(d) (but transitional arrangements and savings in regulation 6 continue in operation by virtue of regulation 8(2)(b) of S.R. 2006 No. 178

“(za) “conversion decision” and “effective date” have the same meanings as in regulation 2(1) of the Employment and Support Allowance (Transitional Provisions, and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010(143);”.”.

(5) In Schedule 3 (regulations that apply after the conversion phase) after “The Social Security (Work-focused Interviews for Partners) Regulations (Northern Ireland) 2003” insert—  
“The Social Security (Habitual Residence) Amendment Regulations (Northern Ireland) 2004”.

### **Revocations**

**26.** The provisions specified in column (1) of the Schedule are revoked to the extent specified in column (3).

Sealed with the Official Seal of the Department for Social Development on 10th October 2011

(L.S.)

*Anne McCleary*  
A senior officer of the Department for Social  
Development

The Department of Finance and Personnel consents to regulations 19 and 20.  
Sealed with the Official Seal of the Department of Finance and Personnel on 10th October 2011

(L.S.)

*Michael Daly*  
A senior officer of the Department of Finance  
and Personnel

*Status: This is the original version (as it was originally made).*

## SCHEDULE

Regulation 26

## Revocations

Column (1) Citation	Column (2) Reference	Column (3) Extent of revocation
The Jobseeker's Allowance Regulations (Northern Ireland) 1996	<a href="#">S.R. 1996 No.198</a>	Regulation 51(4) and (5)
The Social Security (Work-focused Interviews for Lone Parents) Regulations (Northern Ireland) 2001	<a href="#">S.R. 2001 No. 152</a>	Regulation 8(4)
The Social Security (Work-focused Interviews for Partners) Regulations (Northern Ireland) 2003	<a href="#">S.R. 2003 No. 405</a>	Regulation 10(8)
The Social Security (Bulgaria and Romania) (Amendment) Regulations (Northern Ireland) 2006	<a href="#">S.R. 2006 No. 523</a>	Regulation 5(1)
The Employment and Support Allowance Regulations (Northern Ireland) 2008	<a href="#">S.R. 2008 No. 280</a>	Regulations 44(2) and 70(4)(f)(i)
The Social Security (Incapacity Benefit Work-focused Interviews) Regulations (Northern Ireland) 2008	<a href="#">S.R. 2008 No. 465</a>	Regulation 8(6)
The Social Security (Contribution Conditions for Jobseeker's Allowance and Employment and Support Allowance) Regulations (Northern Ireland) 2010	<a href="#">S.R. 2010 No. 346</a>	Regulation 3(3)
The Housing Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 2011	<a href="#">S.R. 2011 No. 136</a>	Regulations 4(7)(a) and 5(7)

**EXPLANATORY NOTE***(This note is not part of the Regulations)*

These Regulations amend a number of different provisions relating to social security.

Part 1 makes general provision about these Regulations. Part 2 amends primary legislation and Part 3 amends secondary legislation.

Part 2 makes amendments to two provisions of primary legislation, consequential on the provisions in Part 1 of the Welfare Reform Act (Northern Ireland) 2007 ("the Welfare Reform Act") Regulation 3 amends section 155(5) of the Social Security Administration (Northern Ireland)

Act 1992 to make provision for modification of legislation in order to give effect to reciprocal agreements made with countries outside the United Kingdom. Section 155(5) provides that the power in section 155(1) may be used to modify secondary legislation under specified acts in relation to particular benefits. The subsection is currently limited to regulations made under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and the Social Security Administration (Northern Ireland) Act 1992. Regulation 3 extends the coverage of this provision so that it also applies to regulations made under the Welfare Reform Act.

Regulation 4 amends the Table attached to section 56(6) of the Data Protection Act 1998. Section 56 of this Act makes it a criminal offence to require an individual to supply or produce a relevant record, as defined in subsection (6), for the purposes of recruitment, continued employment, or the provision of services. The Table attached to section 56(6) lists, at item 2(e), the Department as data controller in relation to his functions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security Administration (Northern Ireland) Act 1992 and the Jobseekers Act (Northern Ireland) 1995. Regulation 4 extends this to the Secretary of State's functions under the Welfare Reform Act.

In Part 3, these Regulations amend;

- the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977
- the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982;
- the Income Support (General) Regulations (Northern Ireland) 1987 (“the Income Support Regulations”);
- the Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 (“the Claims and Payments Regulations”);
- the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995;
- the Jobseeker’s Allowance Regulations (Northern Ireland) 1996 (“the Jobseeker’s Allowance Regulations”);
- the Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997
- the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (“the Decisions and Appeals Regulations”);
- the Social Security (Work-focused Interviews for Lone Parents) Regulations (Northern Ireland) 2001;
- the State Pension Credit Regulations (Northern Ireland) 2003;
- the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2003;
- the Social Security (Work-focused Interviews for Partners) Regulations (Northern Ireland) 2003;
- the Social Security (Habitual Residence Amendment) Regulations (Northern Ireland) 2004
- the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005
- the Housing Benefit Regulations (Northern Ireland) 2006 (“the Housing Benefit Regulations”);
- the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations (Northern Ireland) 2006 (“the Housing Benefit SPC Regulations”);
- the Employment and Support Allowance Regulations (Northern Ireland) 2008 (“the Employment and Support Allowance Regulations”);
- the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (Northern Ireland) 2008;
- the Social Security (Incapacity Benefit Work-focused Interviews) Regulations (Northern Ireland) 2008;

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the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations (Northern Ireland) 2008;

The Employment and Support Allowance (Transitional Provisions and Housing Benefit) (Existing Awards) Regulations (Northern Ireland) 2010; and

the Social Security (Contribution Conditions for Jobseeker's Allowance and Employment and Support Allowance) Regulations (Northern Ireland) 2010.

Regulation 5 replaces a reference to repealed legislation in the Social Security Benefit (Dependency) (Northern Ireland) Regulations 1977.

Regulation 6 amends the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982, to update legislation relating to public health provisions. Regulations 9(3) and 21(2)(c) and (4) make similar amendments to the Social Security (Incapacity for Work) (General) Regulations 1995 and the Employment and Support Allowance Regulations.

Regulation 7 makes several amendments to the Income Support Regulations mainly in order to provide for the Caxton Foundation, a new charitable trust established on 28th March 2011 for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions. The amendments will provide that payments from the Caxton Foundation are to be disregarded for certain purposes. Similar amendments are made in relation to other income-related benefits in regulation 10 (in respect of jobseeker's allowance), regulation 14 (in respect of the state pension credit) regulations 19 and 20 (in respect of housing benefit), and regulation 21 (in respect of employment and support allowance).

Regulation 11 provides for similar amendments to the Social Security (Recovery of Benefits) Regulations (Northern Ireland) 1997, regulation 18 to the Social Fund Maternity and Funeral Expenses (General) Regulations (Northern Ireland) 2005 (in respect of the social fund funeral payments) and regulation 22 to the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (Northern Ireland) 2008.

Regulations 7, 10, 14 and 19 to 21 remove the provision whereby persons from abroad who were registered under the Home Office Worker Registration Scheme were not treated as persons from abroad for benefit purposes.

Regulation 7(7) makes amendments to the Income Support Regulations to achieve the policy intention that an enhanced disability premium ("EDP") be awarded for eight weeks following the death of a child or young person where the claimant's partner is entitled to child benefit following the death of that child or young person. This extends an earlier provision that allowed for an EDP to be awarded for a period of 8 weeks following the death of a child or young person in respect of whom the premium was awarded, provided the claimant is entitled to child benefit for 8 weeks in respect of that child or young person after his or her death. Similar amendments are made in respect of JSA (regulation 10(10)), housing benefit (regulations 19(7)(b) and 20(8)(b)).

Regulation 8 amends Schedule 8A to the Social Security (Claims and Payments) Regulations to ensure that deductions from benefit to discharge obligations to third parties can be made where a person is being paid both income-based and contribution-based jobseeker's allowance or both income-related and contributory employment and support allowance.

Regulations 9(2) and 21(5) and (6) amend the Social Security (Incapacity for Work) (General) Regulations (Northern Ireland) 1995 and the Employment and Support Allowance Regulations respectively to reduce the amount of time that passes before a claimant is to be treated as capable of work (in the context of incapacity benefit) or treated as not having limited capability for work or work-related activity (in the context of ESA) where the claimant fails without good cause to comply with a request for information. By virtue of regulation 2 of these Regulations, the amendments in regulations 9(2) and 21(5) and (6) apply in relation to information requested in the form of a questionnaire first issued by the Department on or after 31st October 2011.

Regulation 10 amends the Jobseeker's Allowance Regulations; paragraph (3) amends the definition of remunerative work by revoking two paragraphs which refer to legislation which has been revoked. Paragraphs (4) to (5) remove outdated references and paragraph (7) updates provisions to include employment and support allowance

Regulation 10(9) amends the Jobseeker's Allowance Regulations to provide that a joint-claim couple may be entitled to a joint-claim JSA even though one member of the couple does not meet all of the conditions of entitlement. The new exemption applies in circumstances where the claimant provides evidence of limited capability for work.

Regulation 12(a) amends the Decisions and Appeals Regulations to enable the Department to revise a decision at any time where there is a non-medical change of circumstances relating to an ESA decision. Regulation 12(b) provides for two further grounds of revision relating to where a person's ESA entitlement is terminated (or not established in the first place as a result of a negative decision made where a person has been reassessed for ESA), the decision giving rise to that is appealed to the tribunal, the person then claims and is awarded income support or JSA during the interim period and the appeal against the original decision is eventually successful.

Regulation 13 amends the Social Security (Work-focused Interviews for Lone Parents) Regulations (Northern Ireland) 2001 ("the 2001 Regulations"). Paragraph (2) changes the requirement for certain lone parents to attend a quarterly instead of a six monthly work-focused interview where their youngest child is aged between 4 and 5. It also removes paragraph (4) of regulation 8 of the 2001 Regulations to reflect the approach taken in other regulations making provision for benefit sanctions.

Regulation 14 amends the State Pension Credit Regulations. In particular, paragraph (4) amends regulation 24 of the State Pension Credit Regulations so that any payment made to a third party on behalf of the claimant, as a service user, is not treated as income of the claimant. Similar amendments are made in respect of housing benefit by regulation 20(5). Paragraph (6) amends Part 1 of Schedule 5 to the State Pension Credit Regulations so that any direct payment made to a claimant is to be disregarded as capital. Similar amendments are made in respect of housing benefit by regulations 20(9).

Regulation 15 amends the Social Security (Work-focused Interviews) Regulations (Northern Ireland) 2003 ("the 2003 Regulations"). Paragraph (2) amends regulation 3A to make the same change in relation to lone parents changing the requirement for certain lone parents where their youngest child is aged between 4 and 5 to attend a quarterly instead of a six monthly work-focused interview. Paragraph (3) makes the same change in relation to sanctions under the 2003 Regulations as regulation 13(3) of these Regulations makes to the 2001 Regulations, to enable sanctions rates to be amended when benefit rates change and to otherwise align with the approach taken where the amount of benefit payable to a claimant changes during a sanction period.

Regulation 16 amends the Social Security (Work-focused Interviews for Partners) Regulations (Northern Ireland) 2003 to make the same amendment in relation to sanctions under those Regulations as regulation 13(3) of these Regulations makes in relation to the 2001 Regulations to enable sanction rates to be amended when benefit rates change and to otherwise align with the approach taken where the amount of benefit payable to a claimant changes during a sanction period.

Regulation 17 amends regulation 6 of the Social Security (Habitual Residence) Amendment Regulations (Northern Ireland) 2004. When the right to reside test was first introduced, in May 2004, all those entitled to a specified income-related benefit on 30 April 2004 were transitionally protected and were allowed to move between the specified benefits without being required to satisfy the test for each benefit. Paragraph (b) adds ESA to the list of specified benefits in paragraph (4) of regulation 6. Paragraph (a) inserts paragraph (1)(ca) into paragraph (1) of that regulation, to provide that the right to reside test for income-related benefits does not apply to a person who had already benefited from the (1)(c) condition, who then claims ESA and it is subsequently determined that

their ESA entitlement is separated from a previous period of entitlement to that benefit by not more than 12 weeks.

Regulations 19 and 20 make a number of amendments to the regulations relating to housing benefit. In particular, they amend the meaning of earnings in the case of self-employed earners so that they no longer include certain allowances paid to the claimant for the purpose of assisting in carrying out the claimant's business. They also remove provisions providing an amount in the claimant's applicable amount in respect of a child under one for whom the claimant receives an additional amount of child tax credit. The additional amount of child tax credit was abolished in April 2011.

Regulation 21 amends the Employment and Support Allowance Regulations. In addition to making changes in respect of ESA replicated elsewhere in these Regulations in relation to other income-related benefits, regulation 23 also makes other changes unique to ESA. Paragraph (3) substitutes a new, but identical, paragraph (b) for existing regulation 8(1)(b) of the Employment and Support Allowance Regulations. This amendment is necessary because of a technical omission in the making of regulation 3(3) of the Social Security (Contribution Conditions for Jobseeker's Allowance and Employment and Support Allowance) Regulations (Northern Ireland) 2010, which substituted the existing regulation 8(1)(b) into the Employment and Support Allowance Regulations. Paragraphs (11) and (12) amend regulation 147A(5) of the Employment and Support Allowance Regulations to make it clear that a claimant is treated as not having limited capability for work from the first day of the benefit week following the date on which the Department receives the appeal tribunal's notification that the claimant's appeal has been dismissed, withdrawn or struck out. In addition, regulation 147A(5) is amended to ensure it also applies in circumstances where regulation 33(9) of the Decisions and Appeals Regulations applies. Paragraph (13) defines "most recent past period of limited capability for work" for the purposes of defining whether a claimant is a work or training beneficiary under regulation 148 of the Employment and Support Allowance Regulations. Paragraph (14) corrects an incorrect legislative reference. Paragraph (15) adds attendance allowance to the care component of disability living allowance as the benefits which have to be received as a condition of entitlement to the severe disability premium for ESA. This is because the definition of "attendance allowance" in regulation 2(1) of the Employment and Support Allowance Regulations is wider than attendance allowance definition elsewhere which is payable only to pension age claimants. Paragraph (16) makes a small amendment to the housing costs linking rules in relation to ESA which replicate similar changes made in relation to other income-related benefits. Similar amendments are made in these Regulations in relation to JSA in regulation 10(11).

Regulation 23 amends the Social Security (Incapacity Benefit Work-focused Interviews) Regulations (Northern Ireland) 2008 and makes the same change in relation to sanctions under those regulations as regulation 13(3) of these Regulations makes to the 2001 Regulations, to enable sanctions rates to be amended when benefit rates change and to otherwise align with the approach taken where the amount of benefit payable to a claimant changes during a sanction period.

Regulation 24 amends the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations (Northern Ireland) 2008 to modify the Jobseeker's Allowance Regulations with the effect that, in some cases, no amount may be met in respect of interest on a qualifying loan where a jobseeker's allowance claimant has been in receipt of interest on a qualifying loan for a total of 104 weeks. The limitation does not apply where the person was previously entitled to income support or ESA within a period of 12 weeks or less. Regulation 24 provides that where entitlement to income support only arises as the result of mortgage interest run on (MIRO) being paid after an award of jobseeker's allowance ends, MIRO is to be disregarded for the purpose of deciding whether the exception applies.

Regulation 25 amends the Employment and Support Allowance (Transitional Provisions, Housing Benefit (Existing Awards) Regulations (Northern Ireland) 2010. Paragraph (2) amends regulation 6(1)(b) of those regulations to provide that the listed statutory provisions can be applied for the purposes of supersession before the effective date of the conversion decision, as well as revision. Paragraph (3) amends regulation 17 of those regulations to provide that the Department is

able to supersede a conversion decision in certain circumstances; regulation 17(d) and (e) as made only provided for it to be revised. Paragraph (4)(a) mirrors the changes made by regulations 21(11) and (12) of these Regulations. It also provides that where an appeal against an adverse decision is upheld, entitlement to a pending-appeal award terminates from the first day of the benefit week following the date on which the Department receives the appeal tribunal's notification of the outcome of the appeal. Paragraph (4)(b) modifies the application of regulation 6 of the Social Security (Habitual Residence) Amendment Regulations (Northern Ireland) 2004 to continue to transitionally protect the claimant who, before reassessment, was already benefiting from transitional protection from the right to reside test, and who, as a consequence of reassessment, becomes entitled to ESA.

Regulation 26 makes further consequential revocations.

In so far as these Regulations are required, for the purposes of regulations 19 and 20, to be referred to the Social Security Advisory Committee under section 149(2) of the Social Security Administration (Northern Ireland) Act 1992, after agreement by the Social Security Advisory Committee, they have not been so referred by virtue of section 150(1)(b) of that Act. Otherwise they make in relation to Northern Ireland only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, that Act, are not subject to the requirement of section 149(2) or, as the case may be, (2A) of that section for prior reference to the Social Security Advisory Committee or the Industrial Injuries Advisory Council.